

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF CHANDLER

THIS AGREEMENT is entered into 7th November, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and THE CITY OF CHANDLER acting by and through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.
4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.
5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

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NO 25609  
Filed with the Secretary of State  
Date Filed: 11/07/02

Betsy Bayless  
Secretary of State

By: Jim D. Gruenewald

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including construction administration.

7. The work embraced in this agreement is for the reconstruction of the intersection at Dobson/Elliott Roads, and the estimated costs are as follows:

Estimated Construction Cost	\$4,304,047.00
Estimated *5% Contingency	<u>\$ 215,205.00</u>
Estimated <i>Total Construction Cost</i>	<i>\$4,519,302.00</i>
Federal-aid Funds (FY02) @ 69% of \$2,076,600 (Cap)	\$1,433,360.00
Federal-aid Funds (FY03) @ 69% of \$2,430,900 (Cap)	\$1,678,040.00
City of Chandler Funds (FY02) @31% of \$2,076,600	\$ 643,240.00
City of Chandler Funds (FY03) @31% of \$2,430,900	\$ 752,860.00
Estimated City of Chandler Funds @ 100%	<u>\$ 11,802.00</u>
<i>Estimated Total City of Chandler Construction Matching Funds</i>	<i>\$1,407,902.00</i>

\*A five percent surcharge is added per Local Government Engineer Memo of April 4, 1994.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction, the City will and does hereby designate the State as authorized agent for the City. The State hereby agrees to be authorized agent for the City, and with the aid and consent of the City and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of the City and the FHWA, enter into a contract with a firm on behalf of the City to whom the award is made for the construction of the project; such project to be performed, completed, accepted and paid for in accordance with the instructions and requirements of the City and the Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation. The State will enter into a Project Agreement with FHWA on behalf of the City covering the work embraced in said construction contract and will request the maximum federal funds available, including construction and administration. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur and will pay for said increased costs.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined to be necessary to match federal funds in the ratio required.

3. The City shall acquire the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bid.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been or will be removed there from, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

6. Upon completion of construction, the City shall provide for, at its own costs and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands curbs and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

### **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. The cost of the design, construction and administration shall be covered by this agreement to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007  
FAX: 602-712-7424

City Manager  
City of Chandler  
55 N. Arizona Place #301  
Chandler, AZ 85331

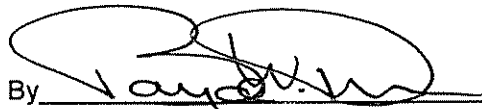
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF CHANDLER

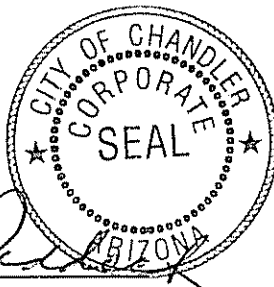
STATE OF ARIZONA  
Department of Transportation

By   
BOYD DUNN  
Mayor

By   
JOHN W. CARR, P.E. Staff Engineer

ATTEST:

By   
MARLA PADDOCK  
City Clerk




JPA 02-063

RESOLUTION

BE IT RESOLVED on this 1st day of August, 2002, that I, the undersigned Victor M. Mendez, as Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the STATE OF ARIZONA that the DEPARTMENT OF TRANSPORTATION, acting by and through the INTERMODAL TRANSPORTATION DIVISION, to enter into an agreement with the CITY OF CHANDLER, for the purpose of defining responsibilities for the construction of the intersection at Dobson and Elliott Roads, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Staff Engineer for approval and execution.



SAM MAROUFKHANI

Deputy State Engineer, Development  
Intermodal Transportation Division

for VICTOR M. MENDEZ, Director

RESOLUTION NO. 3568

OFFICIAL FILE COPY  
CITY OF CHANDLER  
CITY CLERK

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR FUNDING THE CONSTRUCTION OF THE DOBSON ROAD/ELLIOT ROAD INTERSECTION IMPROVEMENTS FOR PROVISION OF \$3,111,400 IN FEDERAL FUNDS AND CITY'S SHARE OF \$1,407,902 FOR A TOTAL ESTIMATED PROJECT COST OF \$4,519,302.

WHEREAS, the City of Chandler (City) is in need of the Dobson Road/Elliot Road Intersection Improvements; and,

WHEREAS, the Federal Highway Administration (FHWA) has obligated funds for the construction of the Dobson Road/Elliot Road Intersection Improvements; and,

WHEREAS, an Intergovernmental Agreement is required by the City and the Arizona Department of Transportation (ADOT) to specify the responsibilities between the parties; and,

WHEREAS, an Intergovernmental Agreement is needed to enable ADOT to administer the acquisition of FHWA funds for the use and benefit of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

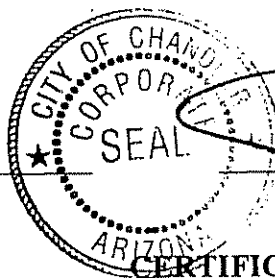
Section 1. That the Intergovernmental Agreement in substantially the form attached hereto, is hereby approved; and

Section 2. That the Mayor of the city of Chandler is hereby authorized to execute said Agreement.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this 10<sup>th</sup> day of October 2002.

ATTEST:

17 Jennifer L. Ladd  
CITY CLERK



[Signature]  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 3568 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at the regular meeting held on the 10<sup>th</sup> day of October 2002, and that a quorum was present thereat.

17 Jennifer L. Ladd  
CITY CLERK

APPROVED AS TO FORM:

Dennis M. O'Neill  
CITY ATTORNEY

JPA 02-63

APPROVAL OF THE CITY OF CHANDLER ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF CHANDLER and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 23rd day of October, 2002.

Dennis M. O'Neill

Attorney



JANET NAPOLITANO  
ATTORNEY GENERAL

STATE OF ARIZONA  
OFFICE OF THE ATTORNEY GENERAL  
TRANSPORTATION SECTION  
1275 WEST WASHINGTON STREET. PHOENIX, AZ 85007-2926

TRN Main: (602) 542-1680  
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Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680  
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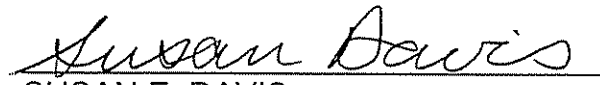
## **INTERGOVERNMENTAL AGREEMENT** **DETERMINATION**

A.G. Contract No. KR02-1511 TRN (JPA 02-063), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED October 30, 2002.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/srs

Att.